

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

SYLVESTER HARRIS, et al.

PLAINTIFF

V.

CIVIL ACTION NO. 1:08-CV-147-SA

WASHINGTON MUTUAL HOME LOANS

DEFENDANT

ORDER

Before the Court is the parties' Motion for Preliminary Approval of Class Settlement Agreement [3, 5]. For the reasons stated below, the motion is denied.

On May 6, 2008, the parties moved that the Court issue an order preliminarily approving the settlement of this matter pursuant to a Settlement Agreement filed with this Court on the same day.

On May 23, 2008, this Court ordered that the reference of the above-captioned adversary proceeding be withdrawn for consideration of the proposed settlement. This Court also assigned the matter to the Honorable Neil P. Olack of the United States Bankruptcy Court for the Northern District of Mississippi for his recommendation of action by this Court.

On October 20, 2008, in the United States Bankruptcy Court for the Northern District of Mississippi, Washington Mutual Bank moved that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Washington Mutual Bank, be substituted for Washington Mutual Bank in this action, since the FDIC was the proper party in interest.

On October 31, 2008, the Bankruptcy Court granted the motion, substituting the FDIC as Receiver for Washington Mutual Bank into this action for the reasons stated in Washington Mutual Bank's motion.

This Court therefore denies the Motion for Preliminary Approval of Class Settlement Agreement, since the FDIC as Receiver for Washington Mutual Bank, the proper party in interest

for this action, was not a party to the proposed settlement agreement and did not participate in its negotiation.

This denial is based solely on the fact that the FDIC as Receiver for Washington Mutual Bank did not participate in the negotiation of the proposed settlement agreement, and the Court expresses no opinion as to the substantive content of the agreement.

The Motion for Preliminary Approval is **DENIED**.

SO ORDERED this the 23rd day of February, 2009.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE